

**TESTIMONY OF
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COMMITTEE ON HOMELAND SECURITY
SUBCOMMITTEE ON MANAGEMENT, INTEGRATION, AND
OVERSIGHT
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Chairman Rogers, Congressman Meek and Members of the Committee, thank you for the opportunity to discuss the Department of Homeland Security (DHS) acquisition program and our contracting procedures. Accompanying me today is Mr. Kevin Boshears, the Director of the Department's Office of Small and Disadvantaged Business Utilization (OSDBU). Mr. Boshears possesses a wealth of knowledge and experience with the small business program. He has served as a contracting officer, as the Department of Treasury's Director of OSDBU, and as Vice Chair of the Office of Small and Disadvantaged Business Utilization Directors' Interagency Council from FY 2001 through FY 2004. He joins me today to answer questions that this Committee may have concerning the Department's small business and socio-economic programs.

I am the Chief Procurement Officer for the Department of Homeland Security (DHS). I am a public servant, as a career executive, and I have spent most of my 23 years of service in the procurement profession. On January 31, 2006, I was selected as the Department's Chief Procurement Officer.

As the Chief Procurement Officer (CPO), I provide oversight and support to the following eight procurement offices within DHS: U.S. Customs and Border Protection (CBP), Transportation Security Administration (TSA); Immigration and Customs Enforcement (ICE); Federal Emergency Management Agency (FEMA); the Federal Law Enforcement Training Center (FLETC); United States Coast Guard (USCG); United States Secret Service (USSS), and the Office of Procurement Operations. In fiscal year 2005, these eight procurement offices obligated over \$17 billion for supplies and services in support of the DHS mission. Given the mission these contracting offices support, the supplies and services purchased by

these offices are often sophisticated and complex. For example, to support its mission of air passenger security TSA has purchased increasingly sophisticated screening equipment for both personnel and carry-on and stowed baggage. We are also working with CBP, in support of DHS' mission to secure the nation's borders, to acquire the technologies to implement the Secure Border Initiative as well as Immigration and Customs Enforcement. The United States Coast Guard is in the midst of upgrading the entire offshore fleet of surface and air assets in the Deepwater program. This program is a critical multiyear, multibillion dollar program to integrate, modernize and replace the Coast Guard's aging ships and aircraft and improve systems for logistics and command and control. The Department is currently in the process of evaluating offers under our EAGLE and First Source programs which will become one of the Government's largest programs for Information Technology equipment and services. Efficiency and effectiveness of these mission critical procurements are facilitated through the use of performance based contracting principals and competitive contracting procedures.

My top priorities for the DHS program are:

First, to establish an acquisition system whereby each requirement has a well defined mission and a management team that includes professionals with the requisite skills to achieve mission results. The FY 2007 Budget request includes \$7.8 million in improve acquisition operations.

My second goal is to build the DHS acquisition workforce. In the FY 2007 Budget, the Department requested \$48.5 million to hire additional procurement personnel. In addition, we have created an initiative under this goal to improve and broaden the DHS Fellows Program. Under the fellows program, we recruit recent college graduates to ensure DHS has a qualified cadre of acquisition professionals to support its mission, now and in the future.

My third goal is to ensure more effective buying across the eight contracting offices through the use of strategic sourcing and supplier management.

My fourth goal is to strengthen contract administration to ensure products and services purchased meet contract requirements and mission need.

The accomplishment of these key objectives requires collaboration and strong working relationships with all DHS stakeholders, to include private industry, other federal agencies, and members of Congress, to ensure DHS meets its mission as effectively as possible. I am committed to continuing with fostering those relationships.

As the CPO, my primary responsibility is to manage and oversee the DHS acquisition program. I provide the acquisition infrastructure by instituting acquisition policies and procedures that allow DHS contracting offices to operate in a uniform and consistent manner. I ensure more effective buying across the eight contracting offices through the use of strategic sourcing commodity councils that allow DHS to secure volume discounts whenever possible. Commodity councils are cross departmental teams of subject matter experts that focus on developing the best strategy for acquiring groups of products and services. While I provide the infrastructure, the responsibility for properly planning and executing procurements rests with the components since, with the exception of the DHS's Office of Procurement Operations, each contracting office reports directly to the heads of the component it supports.

Because seven of eight contracting offices report to the heads of their components, I strive to achieve functional excellence among the offices primarily through collaboration. I use the DHS Chief Acquisition Officers Council, comprised of the heads of each contracting office, to integrate the contracting function while maintaining the components' ability to meet their customers' unique needs.

DHS Contracting Procedures

The contracting procedures DHS uses are those required by federal statute and by the Federal Acquisition Regulation. The federal procurement process is highly regulated and structured. Its purpose is to ensure that all federal government contracts are awarded fairly, vendors are treated equally in the selection process, and that the Government receives the best value for the American public. Although the FAR provides flexibility in how products and services are procured, the process is typically conducted in the following sequence:

- Step One: Need Identified. The procurement process is initiated when a program or requiring office independently identifies a need. The need is then communicated to the contracting office.
- Step Two: Market Capabilities Assessed. Upon identifying a need, the commercial market place is researched to identify products or services to meet the need as well as the availability of commercial sources (e.g., companies) to deliver.
- Step Three: Acquisition Strategy Developed. With an understanding of the need and the market place, an acquisition strategy is developed. It is generally during this step that it is determined that the procurement will be competitive, sole source, or set aside for small businesses, service disabled veteran owned small businesses, HUBZone small businesses, or for eligible 8(a) businesses under the Small Businesses 8(a) program. Other decisions are also made including the duration of a contract, type of contract, and security related issues which need to be addressed. It is our goal to ensure that a majority of our acquisitions are competitively awarded and use performance based acquisition vehicles.
- Step Four: Commercial Sources Solicited. At this step, the federal Government solicits offers (also referred to as quotes and bids depending upon the procurement method) from the commercial market. When required by the FAR, the Government announces its intention to solicit offers. This announcement is known as a synopsis and is issued before the release of the solicitation. The synopsis as well as the solicitation is posted publicly on FEDBIZOPPS, the Government's electronic bulletin board for announcing and posting solicitations.
- Step Five: Offers Received and Evaluated. Upon receipt of offers (also referred to as proposals, bids, or quotes depending upon the method of procurement), the Government begins the evaluation process. Offers are evaluated to ensure they meet the Government's requirements. Offers are evaluated according to the criteria stated in the solicitation. Offers failing to meet solicitation requirements maybe disqualified.
- Step Six: Source Selected. Upon concluding the evaluation of offers, the Government must then select the source for contract award. The basis upon which a selection is to be made is described in the solicitation. Often, the selection decision is

based upon a best value analysis. This involves a trade off analysis between price and non-price factors such as performance or experience.

- Step Seven: Contract Award/Debriefs Conducted. Following the selection of a source, the Government awards a contract. Unsuccessful offers are provided an opportunity to learn why their offer was not selected for award (referred to as a debrief). If an unsuccessful offer believes they were treated unfairly in the evaluation process, the FAR permits them to protest the agency's decision regarding the award of a contract. The venues for protests include the agency awarding the contract, the Government Accountability Office, Court of Federal Claims, and, when the size status or eligibility of a business is questioned, the Small Business Administration. A protest allows for a second look at the source selection procedures employed and the award decision to ensure it was proper.
- Step Eight: Contract Administration. Upon award of a contract, the Government monitors contractor performance to ensure the product or service delivered meets contract requirements. We are currently implementing a policy that would require the use of Earned Value Management on all major development acquisitions. This would ensure we are consistent with federal requirements.
- Step Nine: Contract Close-Out. Upon the satisfactory delivery, acceptance and payment, the contract is closed out.

Shirlington Limousine and Transportation, Inc.

Much has been written regarding the Department's decision to award contracts to Shirlington Limousine and Transportation, Inc., (SL&T) and the facts regarding the Department's decision to award contracts to Shirlington Limousine are as follows:

DHS has awarded two contracts for shuttle bus and executive sedan service to Shirlington Limousine. One contract (HSSCHQ-04-C-00688) was awarded on April 27, 2004 and the second contract (HSHQDC-05-C-0036) was awarded on October 27, 2005. Both contracts were set-aside for HUBZone small businesses based on the market research we conducted and an assessment that HUBZone small businesses could meet

our requirements. We followed the procedures of the Federal Acquisition Regulation in reaching this decision.

Contract HSSCHQ-04-C-00688

The first contract awarded to SL&T was contract HSSCHQ-04-C-00688. The Office of the Chief Administrative Officer identified a need for shuttle bus and sedan services. The DHS Fleet and Transportation Manager researched the market place. Based on the results of that research, it was determined that there was a reasonable expectation that two or more HUBZone firms would likely participate in the procurement. Therefore, as required by Federal Acquisition Regulation (FAR) Part 19.1305, the Contracting Officer set the procurement aside for only HUBZone firms. Further supporting the decision was the DHS Management Directive 0720.1, entitled, Small Business Acquisition Program, which established DHS policy for set-aside decisions. That Management Directive states in part, "Consistent with our mission, DHS will provide maximum practicable opportunities in our acquisitions to small business, veteran-owned small business, service disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women owned small business concerns." On April 14, 2004, DHS publicly announced, through FEDBIZOPPS, its plan to compete the contract as a HUBZone set-aside and on April 15, 2004, posted the solicitation on FEDBIZOPPS. Four companies submitted proposals in response to the solicitation. Upon receipt of proposals, DHS verified the designation of each vendor as being a HUBZone vendor based upon certifications provided by the contractors and information obtained from the Central Contractor Registration database. Two companies were determined ineligible for a HUBZone set-aside based on their small business status. The two remaining proposals were then evaluated following the evaluation criteria in the solicitation. It was after the completion of the technical evaluation that the Contracting Officer questioned the classification of the third company as a small business HUBZone company. Upon receiving additional information from the company, it was determined that the third firm was ineligible for a HUBZone award. At this point, Shirlington Limousine was the only remaining company eligible for award. Consistent with the Federal Acquisition Regulation, the Contracting Officer completed the evaluation of the price proposal and in conjunction with the technical evaluation results determined that Shirlington Limousine's proposal offered the best value based on Technical Capability, Capability of Shuttle Bus and Sedan

Drivers, Past Performance and Price. Per FAR 19.1305(d) where "... the contracting officer receives only one acceptable offer from a qualified HUBZone small business concern in response to a set aside, the contracting officer should make an award to that concern." The Contracting Officer also determined the company responsible confirming that the company was not listed on the Excluded Parties List System (EPLS), a web based system operated by GSA, and checking past performance references provided in the proposal. None of these sources revealed any issues or concerns with the company's capability to meet its obligations under this contract. Hence given that the Shirlington Limousine was determined responsible, its proposal represented the best value and that FAR part 19.1305(d) allows for the award of a single acceptable offer, on April 27, 2004, the Contracting Officer awarded contract HSSCHQ-04-C-00688 to Shirlington Limousine and Transportation, Inc, for a base period of one year plus one additional option year.

I believe that the diligence with which the Contracting Officer awarded this contract is particularly noteworthy given that in April 2004 OPO was in its infancy, having been established only eight months earlier (August 2003) and severely understaffed. Fewer than 10 contracting professionals earnestly endeavored to meet the contracting needs of 35 new DHS program offices (such as Science and Technology and the US-VISIT program), which collectively spent about \$2 billion annually. I commend the efforts of the OPO contracting staff given the very challenging environment in which they worked.

Contract HSHQDC-05-C-0036

Although Contract HSSCHQ-04-C-00688 (the first contract awarded to Shirlington Limousine) was awarded for a potential performance period of two years, the Contracting Officer elected not to exercise the option for the second year due to changes in DHS' need for shuttle bus and executive transportation service. To ensure the Department would receive the best value for the required transportation services, while providing a fair opportunity for offerors to compete, the Contracting Officer decided to re-compete the requirement. Market research concluded that there was a reasonable expectation that two or more HUBZone firm would likely participate. Therefore, as required by procurement regulation, the Contracting Officer set the procurement aside for only HUBZone firms. On June 30, 2005, DHS issued a synopsis on fedbizopps publicly announcing its plan to compete the requirement as a HUBZone set-aside and on July

29, 2005, DHS issued the solicitation, publicly posting the document on fedbizopps. Proposals were received from three offerors. Upon receipt, the HUBZone designation of each vendor was verified using each vendor's representations and certifications and information obtained from the Central Contractor Registration database. After conducting an evaluation, the Shirlington proposal was determined to be the best value proposal received. Prior to award and in accordance with FAR part 9.104-1, an affirmative responsibility determination for Shirlington was performed. This determination was based on confirmation that the company was not listed on the Excluded Parties List System and the contractor's qualifications and experience successfully performing similar work for DHS and other federal Government clients. On October 27, 2005, DHS awarded contract HSHQDC-05-C-0036 for a base period and three option years. Subsequent to the award of the contract, DHS received two protests from one unsuccessful offeror regarding the award decision. One protest challenged the Department's selection decision and was subsequently withdrawn. The second protest challenged Shirlington Limousine's designation as a HUBZone small business. The SBA has jurisdiction over such matters and upheld that Shirlington Limousine met all of the requirements for a HUBZone small business.

Conclusion

In closing, thank you for the opportunity to testify before the Committee about DHS contracting procedures and I am happy to answer any questions you or the Members of the Committee may have.